

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DANIEL KLEEBERG, LISA STEIN, and  
AUDREY HAYS,

Plaintiffs,

v.

LESTER EBER; ALEXBAY, LLC f/k/a LESTER  
EBER, LLC; ESTATE OF ELLIOTT W.  
GUMAER, JR.; and WENDY EBER,

Defendants,

and

EBER BROS. & CO., INC.; EBER BROS. WINE  
AND LIQUOR CORP.; EBER BROS. WINE &  
LIQUOR METRO, INC.; EBER-  
CONNECTICUT, LLC; EBER-RHODE  
ISLAND, LLC; EBER BROS. ACQUISITION  
CORP.; EBER-METRO, LLC; SLOCUM &  
SONS OF MAINE, INC.; and CANANDAIGUA  
NATIONAL BANK & TRUST COMPANY,

Nominal Defendants.

Civil Action No. 16-CV-9517  
(LAK)(KAP)

**NOTICE OF JOINT MOTION TO  
APPROVE DISMISSAL OF  
DERIVATIVE CLAIMS**

PLEASE TAKE NOTICE that Plaintiffs, Daniel Kleeberg, Lisa Stein, and Audrey Hays, together with Defendant Estate of Elliott W. Gumaer, Jr. (the “Estate”), by and through their undersigned counsel, hereby move the Honorable Court of the Southern District of New York, for an order pursuant to Federal Rule of Civil Procedure 23.1, approving the dismissal of the derivative claims filed on behalf of several Nominal Defendants against the Estate.

Dated: October 8, 2020

/s Brian C. Brook  
Brian C. Brook (BB 1980)  
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Lisa Stein, and Audrey Hays*